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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
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EXAMINER

WRIGHT, JAMES B

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/071,053

Applicant(s)

BENT ET AL.

Examiner

J. Bradley Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :9/29/2006, 10/20/2006, 10/26/2006, and 3/1/2007.

DETAILED ACTION

Acknowledgements

1. The examiner for this application has changed. Please indicate Examiner J. Bradley Wright as the examiner of record in all future correspondences.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that the claimed invention fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed in the related US Patent Application Serial No. 10/825,440, which is a reissue examination of US Patent No. 6,347,231 from which the present application is related. In Declaration in that matter, Applicant states:

I verily believe that there is error in the original patent because the method and system of claims 1 and 4, respectively, recite only "using the determination of the net transaction to deposit funds to or withdraw funds from said single insured money market deposit account" or the phrase "a comparison device for determining from the net transaction whether to deposit funds to or withdraw funds from said single insured money market deposit account", respectively. **This covers more than I had a right to claim, because this phrase could be said to cover any method of withdrawal from the recited insured money market deposit account while, according to my invention, only those methods of withdrawal are used which preserve the recited insured money market deposit account's interest-bearing status regardless of the number of transfers and/or withdrawals actually made during a month.** I am filing the present reissue application in order to, inter alia, correct this error by more specifically claiming such withdrawal methods in claim 1 and 4 and in other claims. (Emphasis added)

The Examiner notes that claims 1 and 4, referred to in the statement, are substantially similar to claims 18 and 33 in the present application. The statement indicates that the invention is different from what is defined in the claim(s) because essential elements or steps are missing to achieve the stated intended result of unlimited transfers to an account that maintains its interest-bearing status in the present claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. In light of the information presented by the Applicant within the Information Disclosure Statements (IDS) received on October 20, 2006 and March 1, 2007, an issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows:

- information regarding of any use of the claimed invention prior to October 21, 1997 including, without limitation, the use related to the October 9, 1997 date originally listed in the trademark cited in the IDS, and the date of first use of any products, services and/or systems covered by the claimed invention;

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- the date of the first offer to sell of the services covered by the claimed invention including, without limitation, any and all offers to sell, regardless of acceptance, prior to October 21, 1997; and the date of the solicitation or offer that resulted in the opening of the initial account opened on October 23, 1997;
- information regarding the product associated with the initial account opened on October 23, 1997, in particular, details regarding how that product relates to the claimed invention;
- information regarding the product offered for sale in the advertisement published in the October 1997 issue of MUTUAL FUNDS, in particular, details regarding how the offered product relates to the claimed invention;
- any relevant dates and product information regarding the creation and placement of the advertisements disclosed in the IDS; and
- any other relevant information regarding the public use and/or sale of the claimed invention prior to October 21, 1997.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

4. Notwithstanding the above, claims 1, 3, 14, 27-28 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Oncken (US Patent No. 4,985,833).

5. Regarding claim 1, Oncken discloses a system and method for managing a plurality of client demand accounts including the steps of:

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- (a) establishing a Federal Deposit Insurance Corporation insurable, pooled interest-bearing deposit account at a client's bank or savings institution (see Oncken, Abstract; column 4, lines 5-52; column 5, lines 18-29; and col 12, lines 5-18);
- (b) transferring client funds from each of a plurality of clients to the pooled deposit account at the client's bank or savings institution (see Oncken, column 5, lines 32-56; column 6, lines 18-36; and column 4, lines 5-52); and
- (c) distributing all or a portion of the interest accrued from the pooled deposit account among a plurality of clients (see Oncken, column 6, lines 20-26),
- wherein the client funds are retained by the bank or savings institution, and the client may implement up to an unlimited number of transactions per month while continuing to earn interest (see Oncken, column 6, lines 18-26; and column 12, lines 5-44).

In particular, Oncken discloses a managing financial institution where depositors deliver funds to a central transaction control (same as managing financial institution) which establishes a single money market savings account to receive "co-mingled" deposits of multiple depositors. Oncken discloses that the purpose of this is to be able to provide depositors with accounts that allow unlimited and immediate deposits and withdrawals, FDIC (or FSLIC) protection and earn current market interest (see Oncken, column 5, lines 18-29). Oncken further discloses that the managing financial institute creates and manages a plurality of the client accounts, for example, by maintaining depositors' records, providing statements, and handling transactions, such as deposits, withdrawals, and interest collection and distribution (see Oncken, column 6, lines 7-36

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and column 7, lines 54-65). While Oncken may not explicitly disclose managing "demand" accounts for each of a plurality of clients by such name, Applicant defines a "demand" account as one in which "the owner can demand that funds be drawn and paid to another account (having the same or a different owner), or to a third party" (see Application at page 1, lines 25-27). Thus, in light of the above, the accounts created and managed by the system taught in Oncken could reasonably be interpreted as "demand" accounts, as defined by Applicant.

6. Regarding claim 3, Oncken further discloses the step of keeping track of deposits to, and withdrawals from, each of the client demand accounts, as well as each client's proportionate share in the pooled deposit account (see Oncken, column 6, lines 7-36 and column 12, lines 5-26).

7. Regarding claim 14, Oncken, as discussed above regarding claim 1, discloses a method for managing a plurality of demand accounts for each of a plurality of clients whose funds are held at a banking institution in one or more deposit accounts including:

- (a) accepting client funds (see Oncken, column 5, lines 57-61); and
- (b) the banking institution retaining client funds while, at the same time, providing the client with up to an unlimited number of transactions per month, and also providing the client with interest on account balances (see Oncken, column 5, lines 7-26).

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8. Regarding claims 27 and 28, Oncken further discloses that the interest is distributed and/or accounted for among the client demand accounts (see Oncken, column 6, lines 18-26, and column 12, lines 5-19).

9. Regarding claim 31, Oncken further discloses the steps of determining whether the pooled deposit account contains more than a specified amount for each client, and distributing any amounts over said specified amount into another deposit account at a different preselected banking institution (see Oncken, Figure 3b, column 5, lines 46-56, and column 7, line 66 – column 8, line 32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-13, 15-20, 23-26, 29-30 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oncken in view of Paulson (US Patent No. 5,893,078).

11. Regarding claim 4, Oncken teaches the limitations of claim 3, as discussed above. However, Oncken does not explicitly disclose the step of, on a regular, periodic,

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or recurring basis, calculating a net transaction as the sum of individual client deposits and withdrawals from each of the plurality of client demand accounts.

Paulson, in an analogous art, discloses calculating a net transaction as the sum of individual client deposits and withdrawals from each of the plurality of client demand accounts on a regular, periodic, or recurring basis (see Paulson, item 330 of Figures 3-4, column 1, lines 49-56, and column 11, lines 46-59) for the purpose of determining an optimal sweep threshold for demand deposit accounts that yields the maximum average balance in an money market account, which lowers the balance subject to the reserve requirement (see Paulson, column 1, lines 14-33, and column 12, lines 33-36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oncken to calculate net transactions in the client accounts on a periodic basis in order to maximize the funds in the co-mingled account collecting interest, as taught by Paulson.

12. Regarding claim 5, the combination of Oncken and Paulson teaches the limitations of claim 4, as discussed above. Oncken further discloses the step of utilizing the net transaction calculation to determine an amount of funds that need to be deposited into the pooled deposit account to cover client deposits, or an amount of funds that needs to be withdrawn from the pooled deposit account to cover client withdrawals (see Oncken, column 8, line 49 – column 9., line 2; and column 10, lines 56-68) (see also Paulson, column 1, lines 49-56).

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13. Regarding claim 6, the combination of Oncken and Paulson teaches the limitations of claim 5, as discussed above. Oncken further discloses the step of performing individual account management calculations so as to determine whether to: (a) move funds into the pooled deposit account to cover client deposits to any of a plurality of client demand accounts, or (b) withdraw funds from the pooled deposit account to any of the plurality of client demand accounts (see Oncken, column 8, line 49 – column 9., line 2; and column 10, lines 56-68).

14. Regarding claim 7, the combination of Oncken and Paulson teaches the limitations of claim 6, as discussed above. Oncken further discloses the step of updating a database for each client's deposit and withdrawal activities (see Oncken, column 6, lines 18-26).

15. Regarding claim 8, the combination of Oncken and Paulson teaches the limitations of claim 7, as discussed above. Oncken further discloses the step of accepting client funds for deposit from each of a plurality of clients and from each of a plurality of sources, without limitation as to the number of transfers, and with accrual of interest on the deposited funds (see Oncken, column 5, lines 57-61; and column 6, lines 18-26).

16. Regarding claim 9, the combination of Oncken and Paulson teaches the limitations of claim 7, as discussed above. Oncken further discloses the step of

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providing for the tendering of payments from each of the client demand accounts via any of a plurality of different financial instruments, without limitation as to the number of transfers, and with accrual of interest on at least some of funds deposited by the client in its respective client demand account (see Oncken, column 5, lines 57-61; and column 6, lines 18-26).

17. Regarding claim 10, the combination of Oncken and Paulson teaches the limitations of claim 7, as discussed above. Oncken further discloses the steps of: (a) accepting client funds for deposit from each of a plurality of clients and from each of a plurality of sources, and (b) providing for the tendering of payments from each of the client demand accounts via any of a plurality of different financial instruments, wherein steps (a) and (b) of this claim are performed without limitation as to the number of transfers, and with accrual of interest on the deposited funds (see Oncken, column 5, lines 57-61; and column 6, lines 18-26).

18. Regarding claim 11, the combination of Oncken and Paulson teaches the limitations of claim 10, as discussed above. Oncken further discloses the steps of: (a) monitoring requested debits of funds from each of the client demand accounts, and (b) selectively authorizing or rejecting each of the requested debits based upon an account balance in a client demand account or a client's proportionate share in the pooled deposit account or based upon both the account balance in the demand account and

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the client's proportionate share in the pooled deposit account (see Oncken, column 5, lines 57-67; and column 12, lines 5-26)

19. Regarding claim 12, the combination of Oncken and Paulson teaches the limitations of claim 11, as discussed above. Oncken further discloses the step of debiting or crediting a plurality of deposit accounts at a plurality of banks or savings institutions on the client's behalf (see Oncken, column 6, lines 7-26, column 7, lines 54-58).

20. Regarding claim 13, the combination of Oncken and Paulson teaches the limitations of claim 10, as discussed above. Oncken further discloses the step of, on a periodic, repeated, or regular basis, generating a client report that refers to all of the assets and transactions in each of a plurality of client demand accounts (see Oncken, column 6, lines 7-26).

21. Regarding claim 15, Oncken teaches the limitations of claim 14, as discussed above, Oncken further discloses the steps of:

- providing a database having client information for each account (see Oncken, column (see Oncken, column 5, lines 46-56);
- administering clients' deposits to and withdrawals from each of their demand accounts (see Oncken, column 6, lines 7-26);

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- authorizing or rejecting the use of funds in a particular client's demand account for each demand payment requested from that client's account (see Oncken, column 7, lines 6-51); and
- updating the database for each clients' deposit and authorized demand payment (see Oncken, column 5, lines 46-56, and column 6, lines 7-26).

Oncken further discloses the step of determining an amount of funds that need to be deposited into the pooled deposit account to cover client deposits, or an amount of funds that needs to be withdrawn from the pooled deposit account to cover client withdrawals (see Oncken, column 8, line 49 – column 9., line 2; and column 10, lines 56-68) (see also Paulson, column 1, lines 49-56). However, Oncken does not explicitly disclose determining a net transaction of the sum of one or more deposit account deposits and withdrawals on a regular basis. As discussed above, Paulson discloses determining a net transaction on a regular basis as the sum of individual client deposits and withdrawals from each of the plurality of client demand accounts (see Paulson, item 330 of Figures 3-4, column 1, lines 49-56, and column 11, lines 46-59).

22. Regarding claim 16, the combination of Oncken and Paulson teaches the limitations of claim 15, as discussed above. Oncken further discloses the steps of determining whether each client's deposit account contains more than a specified amount, and distributing any amounts over said specified amount into another deposit account at a preselected banking institution (see Oncken, Figure 3b, column 5, lines 46-56, and column 7, line 66 – column 8, line 32).

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23. Regarding claim 17, the combination of Oncken and Paulson teaches the limitations of claim 16, as discussed above. However, Oncken does not explicitly disclose the methods by which the client's funds are deposited. The Examiner takes Official Notice that it was old in well-known in the art at the time the invention was made to transfer funds between persons or accounts by a variety of methods, including check, wire or electronic transfer, Automated Clearing House (ACH), third party credits, or a sweep, for the purposes of executing a fund transfer as conveniently and efficiently as required or desired by the parties involved. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Oncken to utilize an appropriate known fund transfer method to deliver funds between the clients, the financial institutions, and/or any associated accounts, in order to conveniently and efficiently satisfy the requirements and desires of the client and institutions regarding a financial transaction.

24. Regarding claims 18 and 33, Oncken discloses a system/program for managing a plurality of demand accounts for multiple clients whose funds are held at a banking institution in one or more insured interest-bearing deposit accounts comprising:

- a database having client information for each demand account;
- a device for administering clients' deposits to and withdrawals from their demand accounts (see Oncken, column 5, lines 46-56);

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- a device for authorizing or rejecting the use of funds in a particular client's demand account to be used for each demand payment requested to be paid drawn on funds from that client's demand account (see Oncken, column 7, lines 6-51);
- a device for distributing interest earned on said deposit account among the clients (see Oncken, column 6, lines 20-26); and
- a device for updating the database for each client's deposits and authorized demand payments (see Oncken, column 5, lines 46-56, and column 6, lines 7-26),
- wherein the banking institution retains client funds while, at the same time, providing the client with up to an unlimited number of transactions per month and interest on their account balances in the one or more interest-bearing and insured deposit accounts (see Oncken, column 6, lines 18-26; and column 12, lines 5-44).

As noted above, Oncken further discloses the step of determining an amount of funds that need to be deposited into the pooled deposit account to cover client deposits, or an amount of funds that needs to be withdrawn from the pooled deposit account to cover client withdrawals (see Oncken, column 8, line 49 – column 9., line 2; and column 10, lines 56-68) (see also Paulson, column 1, lines 49-56). However, Oncken does not explicitly disclose determining a net transaction of the sum of one or more deposit account deposits and withdrawals on a regular basis. As discussed above, Paulson discloses determining a net transaction on a regular basis as the sum of individual client deposits and withdrawals from each of the plurality of client demand accounts (see Paulson, item 330 of Figures 3-4, column 1, lines 49-56, and column 11, lines 46-59).

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25. Regarding claims 19 and 20, the combination of Oncken and Paulson teaches the limitations of claim 18, as discussed above. However, Oncken does not explicitly disclose the form in which withdrawals or deposits are made to the client's demand accounts. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made to withdraw funds from a demand account by a variety of methods, including drafts (checks), credit card, debit card, sweeps, or electronic transfers, for the purposes of withdrawing funds as conveniently and efficiently as required or desired by the client. Similarly, as noted above, it is old and well-known in the art to make deposits to a demand account by check, wire or electronic transfer, Automated Clearing House (ACH), third party credits, or a sweep. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Oncken to allow the client to utilize an appropriate known form to withdraw or deposits funds to its demand account, in order to conveniently and efficiently satisfy the requirements and desires of the client.

26. Regarding claims 23, the combination of Oncken and Paulson teaches the limitations of claim 18, as discussed above. However, Oncken does not explicitly disclose the method by which the client's funds are transferred between the parties and accounts. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made to request a transfer of funds between persons or accounts in person, or by mail, or by messenger, or by telephone and distributed by mail, or by automated teller machine, or a combination thereof, for the purposes of

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executing a fund transfer as conveniently and efficiently as required or desired by the parties involved. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Oncken to request a fund transfer in any known manner, in order to conveniently and efficiently satisfy the requirements and desires of the client and institutions regarding a financial transaction.

27. Regarding claims 24-26, as discussed above, Oncken teaches the limitations of claims 1 and 14, and the combination of Oncken and Paulson teaches the limitations of claim 18. However, Oncken does not explicitly disclose that a plurality of transfers of client funds between the demand accounts and the pooled deposit account is via a pooled demand deposit account. Paulson, in an analogous art, discloses that a client's funds from a demand deposit account (DDA) may be deposited in a sub-money market account (MMA) by way of a sub-DDA (see Paulson, column 1, lines 34-48) for the purpose of lowering the balance subject to the reserve requirement, thus freeing up funds for use by the financial institution (see Paulson, column 1, lines 14-33, and column 12, lines 33-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oncken to include a sub-DDA which receives funds from the client's accounts and transfers funds to and from the money market savings account containing the co-mingled funds, as necessary, in order to minimize the balance subject to the reserve requirement, as taught by Paulson.

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28. Regarding claim 29-30, the combination of Oncken and Paulson teaches the limitations of claim 18, as discussed above. Oncken further discloses that the interest is distributed and/or accounted for among the client demand accounts (see Oncken, column 6, lines 18-26, and column 12, lines 5-19).

29. Regarding claim 32, the combination of Oncken and Paulson teaches the limitations of claim 18, as discussed above. Oncken further discloses determining whether the pooled deposit account contains more than a specified amount for each client, and distributing any amounts over said specified amount into another deposit account at a different preselected banking institution (see Oncken, Figure 3b, column 5, lines 46-56, and column 7, line 66 – column 8, line 32).

30. Claims 2 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oncken.

31. Regarding claim 2, Oncken meets the limitations of claim 1, as discussed above. However, Oncken does not explicitly disclose the step of distributing the interest according to the relative proportion of each client's funds in the pooled deposit account. The Examiner take Official Notice that it is old and well-known in the art to distribute earnings (e.g. profits or interest) on a collaborative venture (e.g. pooled investments) to the investors involved based upon their respective financial positions (e.g. percentages or proportions) within the venture, for the purposes of distributing such earnings in a fair

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and equitable manner. Therefore, it would have been obvious to one of ordinary skill in the art to distribute the interest collected on a single money market savings account containing co-mingled deposits of multiple depositors, as disclosed by Oncken, to each of the multiple depositors according to their respective positions within that account, in order to ensure fair and equitable distribution of the interest collected on such a pooled account.

32. Regarding claims 21 and 22, Oncken meets the limitations of claim 1 and 14, respectively, as discussed above. However, Oncken does not explicitly disclose the method by which the client's funds are transferred between the parties and accounts. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made to transfer funds between persons or accounts by a variety of methods, including check, wire or electronic transfer, Automated Clearing House (ACH), third party credits, or a sweep, for the purposes of executing a fund transfer as conveniently and efficiently as required or desired by the parties involved. Similarly, it was old and well-known in the art to request such transfers in person, or by mail, or by messenger, or by telephone and distributed by mail, or by automated teller machine, or a combination thereof. Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Oncken to request and utilize an appropriate known fund transfer method to deliver funds between the clients, the financial institutions, and any associated accounts, in order to conveniently and efficiently satisfy the requirements and desires of the client and institutions regarding a financial transaction.

Response to Arguments

33. Applicant's arguments filed November 21, 2006 have been fully considered but they are not persuasive.

34. In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the essential steps to achieve the features upon which applicant relies are not positively recited in the rejected claim(s).

The Examiner notes that pursuant to MPEP 2111.04, the claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. In particular, the Applicant appears to rely on the "wherein" clause, which states the intended result of the method, i.e. an unlimited number of transactions on client funds retained by the bank while continuing to earn interest. However, the wherein clause has not been given weight since it simply expresses the intended result of the positively recited steps of the claimed method. As discussed above, Oncken discloses the recited steps of the claimed invention. Applicant's claimed invention, on the other hand, does not recite any steps beyond those disclosed in the prior art to accomplish the intended result.

Therefore, it is the Examiner's position that the rejected claims lack the steps necessary to define and achieve the intended result upon which the Applicant relies to distinguish the claimed invention over the prior art of record.

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35. The Applicant further argues that the client may make unlimited transactions against the interest-bearing pooled account at the same bank. However, in addition to the above, the Applicant's position has been contradicted by the Applicant's own statements in the related application discussed above in the rejection under 35 USC 112, second paragraph. Specifically, the statement indicates that such a system, as argued, recites more than the Applicant has a right to claim because the claim could be said to cover any method of withdrawal from the recited insured money market deposit account while, according to Applicant's invention, only those methods of withdrawal are used which preserve the recited insured money market deposit account's interest-bearing status regardless of the number of transfers and/or withdrawals actually made during a month. The present claimed invention does not recite any such limitations, which are said by the Applicant to be necessary to permit the stated intended result of unlimited transactions against the interest-bearing account.

36. Notwithstanding, as discussed above, the Examiner has shown that the prior art of record actually discloses a system that provides a client with an account at a financial institution that allows for unlimited transactions while collecting interest. Applicant's claimed invention, as currently presented, does not positively recite any steps or limitations beyond the teachings of the prior art to achieve the stated and known intended result.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bradley Wright whose telephone number is (571) 272-5872. The examiner can normally be reached on M - F 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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